

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

CORNELIUS THOMAS, JR.,

Plaintiff,

v.

CIVIL ACTION NO. 3:21cv750

BIDS.COM, INC.

SERVE: Paracorp Incorporated
2140 S Dupont Hwy
Camden, DE 19934

and

BIDS INTERNATIONAL SALES, INC.

SERVE: Larry E Russell
23024 Conde Dr
Valencia, CA 91354

Defendants.

COMPLAINT

COMES NOW the Plaintiff, Cornelius Thomas, Jr. (“Plaintiff” or “Mr. Thomas”), by counsel, and as for his Complaint against Defendants Bids.com, Inc. (“Bids.com”) and Bids International Sales, Inc. (“Bids International”) (collectively “Defendants”), he states as follows:

PRELIMINARY STATEMENT

1. This case arises from Defendants’ violation of federal and state law by repeatedly making telemarketing calls to Mr. Cornelius without his consent to do so. Here, Defendants’ failure to abide by federal and state law caused Mr. Thomas anxiety, emotional distress, frustration, invasion of privacy, and lost time due to Defendants’ ongoing, unwanted solicitation calls to Mr. Thomas.

2. Both Congress and the Virginia Legislature have taken serious steps toward curbing the unwanted phone calls that plague consumers. Such marketing calls are illegal under either statutory scheme, with Virginia’s prohibiting such calls using any method without the called party’s consent.

3. The federal statute requires that the caller used an impermissible automatic telephone dialing system (“ATDS”), and that calls be made to cellular phone numbers.

4. Neither statute permits calling to one whose number is registered on the National Do Not Call List.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over this action pursuant Telephone Consumer Protection Act (“TCPA”) 47 U.S.C. § 227, 28 U.S.C. § 1331, and *Mims v. Arrow Fin. Servs., LLC*, 565 U.S. 368 (2012).

6. Supplemental jurisdiction of the state law claims regarding the same transactions and events is provided under 28 U.S.C. § 1367.

7. Venue is proper in this Court because a substantial part of the events giving rise to Plaintiff’s claims occurred in this District and Division. Plaintiff is a resident of this District and Division.

PARTIES

8. Mr. Thomas is a natural person, Virginia resident, cellular telephone subscriber, and consumer.

9. Bids.com, Inc. is a foreign corporation, formed in Delaware. Its registered agent is Paracorp Incorporated, 2140 S Dupont Hwy, Camden DE 19934. Bids.com is not registered to do business in Virginia.

10. Bids International Sales, Inc. is a California corporation with its principal office at 2724 Turnberry Lane, Suite 300, Valencia, CA 91355. Its registered agent is Larry E Russell, 23024 Conde Dr, Valencia, CA 91354. Bids International is not registered to do business in Virginia.

11. Defendants, by either making or causing others to make, telephone solicitation calls, is a Telephone Solicitor as defined by the VTPPA, Va. Code § 59.1-510.

FACTUAL ALLEGATIONS

12. On or around June 06, 2006, Mr. Thomas registered his cellular phone number ending in 6603 (the “Phone Number”) on the National Do Not Call Registry. He has never changed his cellular phone number, removed it from the list, or relinquished ownership of the number.

13. Prior to October 2, 2020, Mr. Thomas had not had any contact with either of Defendants.

14. On or around October 2, 2020, Defendants first called Mr. Thomas at the Phone Number.

15. This first call showed the incoming phone number as 310-855-3369.

16. The Bids.com website lists the phone number 310-855-3525 for its customer service.

17. When Mr. Thomas answered this call, he did not speak to a live person but rather heard music playing on the call.

18. On or around February 2, 2021, Defendants called Mr. Thomas at the Phone Number.

19. This second call showed the incoming phone number as 310-855-3369.

20. When Mr. Thomas answered this call, he did not first speak to a live person but rather heard music playing on the call.

21. When Mr. Thomas then spoke to a live person on this call, Mr. Thomas learned that Defendants were marketing securities for Mr. Thomas to purchase.

22. The caller identified himself as “Brad Crawford, calling you from Bids.com.”

23. Mr. Thomas indicated on this call that he was not interested in Defendants’ offer.

24. The terms and conditions page on the website www.bids.com references both Bids International as well as Bids.com, Inc.

25. On or around March 18, 2021, Defendants called Mr. Thomas at the Phone Number.

26. This third call showed the incoming phone number as 310-855-3369.

27. When Mr. Thomas answered this call, he did not speak to a live person but rather only heard a long pause.

28. On or around April 6, 2021, Defendants called Mr. Thomas at the Phone Number.

29. This fourth call showed the incoming phone number as 310-855-3369.

30. On this call, the caller identified himself as “Eli from Bids.com.”

31. Mr. Thomas told the caller that he was at work and was busy and thus could not talk.

32. When Mr. Thomas asked the caller for a good call-back number, the caller refused to provide one.

33. On or around May 18, 2021, Defendants called Mr. Thomas at the Phone Number.

34. This fifth call showed the incoming phone number as 310-855-3369.

35. On or around May 31, 2021, Defendants called Mr. Thomas at the Phone Number.

36. This fifth call showed the incoming phone number as 310-855-3369

37. The caller identified himself as Harold Wilson and said “calling you back from Bids.com.”

38. The caller also said “my company Bids.com.”

39. On or around June 1, 2021, Defendants called Mr. Thomas at the Phone Number.

40. This sixth call showed the incoming phone number as 786-753-5802.

41. The caller identified himself as Eric Silverman and the founder of Bids.com.

42. Mr. Thomas spent time and energy on these calls to learn more details about who was calling him and what they were calling him about.

43. These repeated calls caused Mr. Thomas anxiety, frustration, lost time, and emotional distress.

CAUSES OF ACTION

COUNT ONE:

Repeated Unwanted Telemarketing Calls in Violation of the Telephone Consumer Protection Act (TCPA) 47 U.S.C. § 227

44. Mr. Thomas realleges and incorporates all other factual allegations set forth in this Complaint.

45. Defendants made repeated telemarketing calls to Mr. Thomas’ cellular phone despite his having registered the number on the National Do Not Call List.

46. These repeated calls were made without Mr. Thomas authorization and disregarded Mr. Thomas’ designation of the Phone Number on the National Do Not Call List and were thus a violation of 47 C.F.R. § 64.1200(c)(2).

47. The violations of these regulations also constituted violations of the TCPA. 47 U.S.C. § 227(c)(5).

48. Defendants willfully and/or knowingly violated these regulations.

49. As a result of repeated unwanted telemarketing calls, Mr. Thomas suffered actual damages including frustration, anger, stress, invasion of privacy, and other emotional and mental distress. He was also forced to spend time and resources to try to stop Defendants from contacting him.

50. As a result, Mr. Thomas is entitled to recover \$1,500 in statutory damages for each call in violation of the TCPA or his actual damages, whichever is greater. 47 U.S.C. § 227(c)(5).

COUNT TWO:
Use of Automatic Telephone Dialing System
in Violation of Telephone Consumer Protection Act (TCPA)
47 U.S.C. § 227

51. Mr. Thomas realleges and incorporates all other factual allegations set forth in this Complaint.

52. A number of Defendants' calls to Mr. Thomas, there was either a long pause or music playing when Mr. Thomas answered the call, indicative that Defendants were using an Automatic Telephone Dialing System (ATDS) in making such calls.

53. Mr. Thomas never provided consent for Defendants to make such calls.

54. Defendants' calls violated the TCPA. 47 U.S.C. § 227(b)(1)(A)(iii).

55. Defendants use of an ATDS to call Mr. Thomas without his consent was done wilfully and or knowingly.

56. As a result of repeated unwanted telemarketing calls, Mr. Thomas suffered actual damages including frustration, anger, stress, invasion of privacy, and other emotional and mental distress. He was also forced to spend time and resources to try to stop Defendants from contacting him.

57. As a result, Mr. Thomas is entitled to recover \$1,500 in statutory damages for each call in violation of the TCPA or his actual damages, whichever is greater. 47 U.S.C. § 227(c)(5).

COUNT THREE:

***Repeated Unwanted Telephone Solicitation Calls
in Violation of Virginia Telephone Privacy Protection Act (VTPPA)
Va. Code § 59.1-514***

58. Mr. Thomas realleges and incorporates all other factual allegations set forth in this Complaint.

59. Defendants repeatedly made telephone solicitation calls to Mr. Thomas' cellular phone after he registered it on the National Do Not Call List.

60. This repeated unwanted telephone solicitation calls were violations of the VTPPA. VA. CODE ANN. § 59.1-514(A),(B).

61. Defendants willfully violated the VTPPA. They are also jointly and severally liable for the violations. VA. CODE ANN. § 59.1-514.1.A.

62. As a result of these unwanted telephone solicitation calls, Mr. Thomas suffered actual damages including frustration, anger, stress, and other emotional and mental distress. He was also forced to spend time and resources to try to stop Defendants from contacting him.

63. As a result, Mr. Thomas is entitled to recover for \$5,000 in statutory damages for each call in violation of the VTPPA, as well as reasonable attorney's fees and costs. VA. CODE ANN. § 59.1-515.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38, Plaintiff hereby demands a trial by jury of all issues triable by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment for actual, and statutory damages against the Defendant, in addition to attorney fees and costs; pre- and post-judgment interest at the legal rate; injunctive and declaratory relief; and any other relief the Court deems just, equitable, and proper.

Respectfully submitted,
CORNELIUS THOMAS, JR.

By /s/ Craig Marchiando
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